

MEMO ENDORSED

Memorandum Endorsement

Tyskowski v. International Business Machines Corporation
7:22-cv-08207 (NSR)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 4/5/2023

The Court has reviewed the parties' attached three letter motions for leave to provisionally file certain documents under seal. (ECF Nos. 4, 17, and 22.) Although the parties request that numerous documents be filed provisionally under seal, these documents are either: (1) not filed on the docket; or (2) only filed on the docket in redacted form. The parties are reminded that the Court cannot direct that a document be filed under seal unless it is filed on ECF in non-redacted form.

Thus, the parties are directed to file on ECF non-redacted versions of the documents they wish the Court to provisionally file under seal. The parties are also directed to file a letter motion to provisionally seal these documents that identifies these documents with their corresponding ECF numbers, as well as to email this letter motion to the Court at the time of filing.

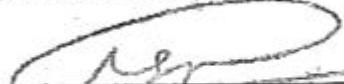
Additionally, Respondent is granted leave to file its motion to permanently file documents under seal pursuant to the following briefing schedule:

- Respondent's moving papers are to be served (not filed) on May 22, 2023;
- Petitioner's opposition papers are to be served (not filed) on June 21, 2023; and
- Respondent's reply papers are to be served on July 5, 2023.

The parties are directed to provide Chambers with two physical courtesy copies of their motion papers on the same date they are served on opposing counsel. The parties are further directed to provide the Court with an electronic courtesy copy of the motion papers as they are served per this Court's local emergency civil rules. The Clerk of the Court is kindly directed to terminate the motions at ECF Nos. 4, 17, and 22.

Dated: April 5, 2023
White Plains, NY

SO ORDERED:


HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MICHAEL R. TYSKOWSKI,)	Civil Action No. 1:22-cv-08207
)	
)	
Plaintiff,)	
)	
v.)	
)	
INTERNATIONAL BUSINESS)	
MACHINES CORP.,)	
)	
Defendant.)	

PLAINTIFF’S MOTION TO PROVISIONALLY SEAL DOCUMENTS

Pursuant to the confidentiality provision in Respondent IBM’s arbitration agreement, Petitioner has filed redacted versions of his Petition to Vacate Arbitration Award.

Petitioner hereby requests permission to file under seal an unredacted version of the Petition (attached here as Exhibit A). The parties dispute whether these materials should ultimately be filed as a matter of public record or sealed based on the confidentiality provision in IBM’s arbitration agreement. However, until Respondent has an opportunity to brief the Court regarding the need to file these documents under seal, Petitioner requests that he be permitted to file the Petition and Motion to Vacate and related arbitration documents provisionally under seal.

Respectfully submitted,

MICHAEL TYSKOWSKI,

By his attorneys,

/s/ Shannon Liss-Riordan

Shannon Liss-Riordan (NY Bar No. 2971927)

Thomas Fowler (*pro hac vice* forthcoming)

LICHTEN & LISS-RIORDAN, P.C.

729 Boylston Street, Suite 2000

Boston, MA 02116

(617) 994-5800

Email: sliss@llrlaw.com; tfowler@llrlaw.com

Dated: September 26, 2022

JONES DAY

1221 PEACHTREE STREET, N.E. • SUITE 400 • ATLANTA, GEORGIA 30361

TELEPHONE: +1.404.521.3939 • JONESDAY.COM

DIRECT NUMBER: 4045818412

CSFRIEDMAN@JONESDAY.COM

November 17, 2022

CM/ECF

Hon. Nelson S. Román
United States District Court
Southern District of New York
United States Courthouse
300 Quarropas Street
White Plains, NY 10601

Re: *Tyskowski v. International Business Machines Corporation,*
No. 7:22-cv-08207 (S.D.N.Y.)

Dear Judge Román:

Consistent with the confidentiality provisions of Defendant International Business Machines Corporation's ("IBM" or "Defendant") Arbitration Agreement, ECF No. 5, Ex. 2, Ex. B at 32, Defendant respectfully seeks leave to provisionally file (i) under seal its Response in Opposition to Plaintiff's Petition and Motion to Vacate Arbitration Award ("Response"), and (ii) publicly a redacted version of its Response. Plaintiff consents to this request. Further, and to avoid multiple rounds of confidentiality briefing, the parties agree to confer on a schedule for briefing of Defendant's forthcoming motion to seal. The motion to seal will be briefed upon the conclusion of briefing on Plaintiff's Motion to Vacate Arbitration Award.

On September 26, 2022, Plaintiff filed a motion to seal unredacted versions of Plaintiff's Petition to Vacate (the "Petition"), Motion to Vacate, and exhibits attached thereto. ECF No. 4. Plaintiff's exhibits to his Motion to Vacate consist of filings and orders from the Arbitrator in the underlying arbitration. Plaintiff publicly filed a version of the Petition and Motion to Vacate, redacting portions that refer to the underlying arbitration documents attached as exhibits. ECF Nos. 1, 5. In his motion to seal, Plaintiff stated that "The parties dispute whether these materials should ultimately be filed as a matter of public record or sealed based on the confidentiality provision in IBM's arbitration agreement." ECF No. 4, at 1.

Defendant requests that its Response, along with Plaintiff's Petition, Motion to Vacate, and attached exhibits, remain under seal until the parties have fully briefed the merits of Plaintiff's claim for vacatur. Specifically, Defendant expects that Plaintiff will file a reply memorandum of law in support of his Motion to Vacate. Plaintiff's forthcoming reply, and any attached exhibits, will likely involve similar confidentiality issues related to the Arbitration Agreement that Plaintiff signed. Thus, to avoid multiple rounds of confidentiality briefing, Defendant further seeks leave

JONES DAY

The Honorable Nelson S. Román
November 17, 2022
Page 2

to file a memorandum of law in support of its motion for leave to file under seal once the parties have concluded briefing on Plaintiff's motion to vacate.

The parties will confer on a briefing schedule on Defendant's forthcoming motion to seal and submit it to the Court for approval. Defendant requests that the Court order that documents filed under seal throughout the merits briefing of Plaintiff's vacatur claim remain under seal until the Court has ruled on Defendant's forthcoming motion to seal.

Very truly yours,

/s/ Craig S. Friedman

Craig S. Friedman

cc: Shannon Liss-Riordan, Esq.
Thomas Fowler, Esq.

L I C H T E N & L I S S - R I O R D A N , P . C .

ATTORNEYS AT LAW

HAROLD L. LICHTEN*
SHANNON LISS-RIORDAN*^Δ[◇]
SARAH SCHALMAN-BERGEN*[■]
MATTHEW W. THOMSON*
ADELAIDE H. PAGANO*

729 BOYLSTON STREET, SUITE 2000
BOSTON, MASSACHUSETTS 02116

WWW.LLRLAW.COM

THOMAS P. FOWLER*[◇]
OLENA SAVYTSKA*
ANNE KRAMER*^Δ
MICHELLE CASSORLA*^Δ[◇][☆]
ZACHARY RUBIN*[◇]^Δ[▲]
ANASTASIA DOHERTY*
MATTHEW PATTON*
KRYSTEN CONNOR*[■]
MATTHEW CARRIERI*
BENJAMIN J. WEBER*[◇] OF COUNSEL

TELEPHONE 617-994-5800
FACSIMILE 617-994-5801

× ADMITTED IN MASSACHUSETTS
Δ ADMITTED IN CALIFORNIA
◇ ADMITTED IN NEW YORK
■ ADMITTED IN PENNSYLVANIA
^ ADMITTED IN NEW JERSEY
◆ ADMITTED IN CONNECTICUT
☆ ADMITTED IN DISTRICT OF COLUMBIA
□ ADMITTED IN TENNESSEE

December 16, 2022

VIA: CM/ECF

Hon. Nelson S. Román
United States District Court
Southern District of New York
United States Courthouse
300 Quarropas Street
White Plains, NY 10601

Re: *Tyskowski v. International Business Machines Corp.*,
Civ. Act. No. 7:22-cv-08207 (S.D.N.Y.)

Dear Judge Román:

Plaintiff respectfully seeks leave to provisionally file under seal his Reply in Support of his Motion to Vacate Arbitration Award. Plaintiff will also publicly file a redacted version of his Reply.

As Plaintiff explained in his Motion to Provisionally Seal Documents (Dkt. 4) seeking to file his Petition and Motion to Vacate Arbitration award temporarily under seal, he does not believe that any materials in the record are properly confidential and takes the position that these documents should be unsealed. IBM, on the other hand, maintains that because its arbitration agreement includes a confidentiality provision, portions of the briefs and supporting documents are confidential and should remain under seal. Plaintiff therefore requests permission to file his Reply under seal, along with a publicly filed redacted version, so that the Court can determine the propriety of sealing it after having received briefing on that issue from the parties.

As IBM indicated in its letter motion to seal submitted on November 17, 2022 (Dkt. 17), with the Court's permission, the parties will confer on a briefing schedule for a motion to be submitted by IBM addressing whether all of these documents should ultimately remain under seal.

L I C H T E N & L I S S - R I O R D A N , P. C.

Sincerely,

/s/ Shannon Liss-Riordan
Shannon Liss-Riordan

cc: All counsel of record via CM/ECF